

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

AUGUST IMAGE, LLC,

Plaintiff,

Case No. 1:23-cv-04181

v.

RUNWAYRIOT, LLC AND JOHN DOES 1-
5,

Defendants.

**DEFENDANTS RUNWAYRIOT, LLC AND JOHN DOES 1-5'S ANSWER TO
PLAINTIFF AUGUST IMAGE, LLC'S AMENDED COMPLAINT**

/s/ Elizabeth Vulaj

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Counsel for Defendants

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Counsel for Defendants

Pursuant to Rule 8(b)-(e) of the Federal Rules of Civil Procedure, Defendants RunwayRiot, LLC (“RunwayRiot”) and John Does 1-5 (“John Does”) (RunwayRiot and John Does collectively the “Defendants”) answer the Plaintiff’s Amended Complaint (“Complaint”), filed by Plaintiff August Image, LLC (“Plaintiff”) as follows:

1. Defendants admit that Plaintiff has filed this action for willful copyright infringement, but deny the allegation that RunwayRiot has committed any form of copyright infringement whatsoever and therefore, deny the remaining allegations set forth in Paragraph 1 of Plaintiff’s Complaint.

2. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 2 of Plaintiff’s Complaint and on such basis, they are therefore deemed denied.

3. Defendants deny the allegations set forth in Paragraph 3 of Plaintiff’s Complaint and state that RunwayRiot is a defunct website with no operating business accounts or offices, and is not located at 584 Broadway, Suite 510, New York City, New York, 10012.

4. Defendants deny the allegations set forth in Paragraph 4 of Plaintiff’s Complaint, as RunwayRiot is a defunct website with no current business office or members/employees, and is not located at 584 Broadway, Suite 510, New York City, New York, 10012.

5. To the extent that the allegations set forth in Paragraph 5 of Plaintiff’s Complaint state legal conclusions, no response is required. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 5 of Plaintiff’s Complaint.

6. Defendants deny the allegations set forth in Paragraph 6 of Plaintiff’s Complaint.

7. Defendants deny the allegations set forth in Paragraph 7 of Plaintiff’s Complaint.

8. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 8 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

9. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 9 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

10. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 10 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

11. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 11 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

12. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 12 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

13. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 13 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

14. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 14 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

15. Defendants deny the allegation that RunwayRiot has committed any form of copyright infringement whatsoever and lack sufficient information to either affirm or deny the

remaining allegations set forth in Paragraph 15 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

16. Defendants deny the allegations set forth in Paragraph 16 of Plaintiff's Complaint.
17. Defendants deny the allegations set forth in Paragraph 17 of Plaintiff's Complaint.
18. Defendants deny the allegations set forth in Paragraph 18 of Plaintiff's Complaint.
19. Defendants deny the allegations set forth in Paragraph 19 of Plaintiff's Complaint.
20. Defendants deny the allegations set forth in Paragraph 20 of Plaintiff's Complaint.
21. Defendants deny the allegations set forth in Paragraph 21 of Plaintiff's Complaint.
22. Defendants deny the allegations set forth in Paragraph 22 of Plaintiff's Complaint.
23. Defendants deny the allegations set forth in Paragraph 23 of Plaintiff's Complaint.
24. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 24 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.
25. Defendants deny the allegation that RunwayRiot has committed any form of copyright infringement whatsoever and lack sufficient information to either affirm or deny the remaining allegations set forth in Paragraph 25 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.
26. Defendants deny the allegations set forth in Paragraph 26 of Plaintiff's Complaint.
27. Defendants deny the allegations set forth in Paragraph 27 of Plaintiff's Complaint.
28. Defendants deny the allegations set forth in Paragraph 28 of Plaintiff's Complaint.
29. Defendants deny the allegations set forth in Paragraph 29 of Plaintiff's Complaint.
30. Defendants deny the allegations set forth in Paragraph 30 of Plaintiff's Complaint.
31. Defendants deny the allegations set forth in Paragraph 31 of Plaintiff's Complaint.

32. Defendants deny the allegations set forth in Paragraph 32 of Plaintiff's Complaint.
33. Defendants deny the allegations set forth in Paragraph 33 of Plaintiff's Complaint.
34. Defendants deny the allegations set forth in Paragraph 34 of Plaintiff's Complaint.
35. Defendants deny the allegations set forth in Paragraph 35 of Plaintiff's Complaint.
36. Defendants deny the allegations set forth in Paragraph 36 of Plaintiff's Complaint.
37. Defendants deny the allegations set forth in Paragraph 37 of Plaintiff's Complaint.
38. Defendants deny the allegations set forth in Paragraph 38 of Plaintiff's Complaint.
39. Defendants incorporate their responses to the above listed paragraphs as if set forth in full herein.

40. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 40 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

41. Defendants lack sufficient information to either affirm or deny the allegations set forth in Paragraph 41 of Plaintiff's Complaint and on such basis, they are therefore deemed denied.

42. Defendants deny the allegations set forth in Paragraph 42 of Plaintiff's Complaint.
43. Defendants deny the allegations set forth in Paragraph 43 of Plaintiff's Complaint.
44. Defendants deny the allegations set forth in Paragraph 44 of Plaintiff's Complaint.
45. Defendants deny the allegations set forth in Paragraph 45 of Plaintiff's Complaint.
46. Defendants deny the allegations set forth in Paragraph 46 of Plaintiff's Complaint.
47. Defendants deny the allegations set forth in Paragraph 47 of Plaintiff's Complaint.
48. Defendants incorporate their responses to the above listed paragraphs as if set forth in full herein.

49. Defendants deny the allegations set forth in Paragraph 49 of Plaintiff's Complaint.
50. Defendants deny the allegations set forth in Paragraph 50 of Plaintiff's Complaint.
51. Defendants deny the allegations set forth in Paragraph 51 of Plaintiff's Complaint.
52. Defendants deny the allegations set forth in Paragraph 52 of Plaintiff's Complaint.
53. Defendants deny the allegations set forth in Paragraph 53 of Plaintiff's Complaint.
54. Defendants deny the allegations set forth in Paragraph 54 of Plaintiff's Complaint.
55. Defendants deny the allegations set forth in Paragraph 55 of Plaintiff's Complaint.
56. Defendants deny the allegations set forth in Paragraph 56 of Plaintiff's Complaint.
57. Defendants incorporate their responses to the above listed paragraphs as if set forth

in full herein.

58. Defendants deny the allegations set forth in Paragraph 58 of Plaintiff's Complaint.
59. Defendants deny the allegations set forth in Paragraph 59 of Plaintiff's Complaint.
60. Defendants deny the allegations set forth in Paragraph 60 of Plaintiff's Complaint.
61. Defendants deny the allegations set forth in Paragraph 61 of Plaintiff's Complaint.
62. Defendants deny the allegations set forth in Paragraph 62 of Plaintiff's Complaint.
63. Defendants deny the allegations set forth in Paragraph 63 of Plaintiff's Complaint.
64. Defendants deny the allegations set forth in Paragraph 64 of Plaintiff's Complaint.
65. Defendants deny the allegations set forth in Paragraph 65 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

3. Plaintiff's claims are barred, in whole or in part, because Plaintiff lacks standing to assert, prosecute, or bring the claims asserted or obtain the relief sought.

4. Plaintiff's claims are barred, in whole or in part, from recovery based on laches, waiver, estoppel, unclean hands, and similar equitable principles.

5. Plaintiff's claims are barred, in whole or in part, from recovery based on estoppel.

6. Plaintiff's claims are barred, in whole or in part, as they lack subject-matter jurisdiction.

7. Plaintiff's claims are barred, in whole or in part, as they lack personal jurisdiction.

8. Plaintiff's claims are barred, in whole or in part, as they were brought in an improper venue.

9. Plaintiff's claims are barred, in whole or in part, as they are so vague, ambiguous, and/or overbroad that Defendants cannot reasonably prepare a response.

10. Plaintiff's claims are barred, in whole or in part, as Plaintiff failed to render proper service of process.

11. Plaintiff's claims are barred, in whole or in part, due to failure to mitigate damages.

12. Upon information and belief, Plaintiff's claims are barred, in whole or in part, to the extent any copyright registration asserted by Plaintiff as covering the Photos are invalid and/or unenforceable.

13. Plaintiff's claims are barred, in whole or in part, by the doctrine of fair use.

14. Plaintiff's claims are barred, in whole or in part, by the news reporting exception to copyright law, enabling reporters and journalists to make use of certain works for purposes of criticism, commentary, and news reporting.

15. Plaintiff's claims are barred, in whole or in part, by the doctrine of misuse of copyright.

16. Plaintiff's claims are barred, in whole or in part, by the First Amendment to the United States Constitution.

17. Plaintiff's claims are barred, in whole or in part, because Plaintiff suffered no damages as a result of any alleged conduct by Defendants.

18. Plaintiff's claims are barred, in whole or in part, because Plaintiff has failed to allege the purported actual damages with the requisite particularity, and because the damages are speculative and imprecise.

19. Plaintiff is not entitled to recover any of Defendants profits because such profits, if any, are not attributable to any alleged infringement and are duplicative of Plaintiff's purported damages.

20. Plaintiff's claims for statutory damages are barred, in whole or in part, or reduced as to the amount of recovery, because Defendants have not willfully infringed any intellectual property or other rights owned by Plaintiff and because Defendants have acted innocently, in good faith, and without any intention of injuring Plaintiff.

21. Plaintiff's claims for statutory damages are barred, in whole or in part, to the extent that, when measured against any actual damage suffered by Plaintiff, would be excessive, obviously unreasonable, and wholly disproportionate in violation of the Due Process Clause.

22. Plaintiff's claims are barred, in whole or in part, as the Photos contain elements taken from the public domain upon which a copyright infringement cannot be maintained.

23. Plaintiff's claims are barred, in whole or in part, as Defendants' conduct was innocent, non-infringing, and not a willful infringement of copyright.

24. Defendants reserve the right to amend this Answer and Affirmative Defenses to assert such additional defenses as may later become available or apparent.

DATED: May 21, 2024

Respectfully submitted,

/s/ Elizabeth Vulaj
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